



COUNTY OF LOS ANGELES  
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012-2713

April 30, 2004

TDD  
(213) 633-0901  
TELEPHONE  
(213) 974-1804  
TELECOPIER  
(213) 626-7446

TO: SUPERVISOR DON KNABE, Chairman  
SUPERVISOR GLORIA MOLINA  
SUPERVISOR YVONNE BRATHWAITE BURKE  
SUPERVISOR ZEV YAROSLAVSKY  
SUPERVISOR MICHAEL D. ANTONOVICH

FROM: RAYMOND G. FORTNER, JR.  
Chief Deputy County Counsel

RE: **Decertification of Touchscreen Voting Machines**

This is to advise you that today, the California Secretary of State, Kevin Shelley, decertified and banned the use of touchscreen voting machines in Kern, San Diego, San Joaquin, and Solano counties using the Diebold Tsx models (see attached). More importantly to our County, touchscreens used in 10 other counties, including Los Angeles, were decertified unless a voter verified paper trail is installed by November 2004, or 23 security measures are met before he would recertify the systems. The 23 security measures were not immediately disclosed, and as such, it is unclear whether the Registrar can meet the requirements.

We will keep you informed as the issue progresses. If you have questions concerning this matter, please contact Senior Deputy County Counsel Judy W. Whitehurst at (213) 974-8948.

RGF:JWW:ds

Attachment

c: David E. Janssen  
Chief Administrative Officer

Violet Varona-Lukens, Executive Officer  
Board of Supervisors

Conny B. McCormack  
Registrar-Recorder/County Clerk



# NEWS RELEASE

CALIFORNIA SECRETARY OF STATE **KEVIN SHELLEY**

KS04:030

FOR IMMEDIATE RELEASE  
Friday, April 30, 2004

Contact: Doug Stone  
Carol Dahmen  
916-653-6575

## **Secretary of State Kevin Shelley Bans Diebold TSx for Use in November 2004 General Election**

*Also Decertifies All Touchscreen Systems in California Until Security Measures are Met*

SACRAMENTO – Secretary of State Kevin Shelley today banned the use of touchscreen voting systems in four counties and decertified all touchscreen systems in California until security measures are in place to safeguard the November vote.

"We are taking every step possible to assure all Californians that their ballots will be counted accurately," Shelley said.

Shelley decertified one type of touchscreen system, the Diebold TSx system, banning its use in the four counties where it is installed: Kern, San Diego, San Joaquin, and Solano. He took the additional step of requesting the Attorney General to investigate criminal and civil actions against Diebold in this matter based on what he called "fraudulent actions by Diebold."

These actions were detailed in a report issued April 20 by the Secretary of State's office. The report indicated Diebold's persistent and aggressive marketing led to installation in a number of counties of touchscreen systems that were neither tested, qualified at the federal level, nor certified at the state level – and that Diebold then lied about it to Secretary of State officials.

"We will not tolerate the deceitful conduct of Diebold, and we must send a clear message to the rest of the industry: Don't try to pull a fast one on the voters of California," Shelley said.

In the remaining 10 counties using touchscreen systems, Shelley said he would require the counties to either install a voter-verified paper trail before November, or to meet 23 security measures before he would recertify those systems.

"I was proud to be the first Secretary of State in the nation to call for a voter-verified paper trail on touchscreen systems, and today I am taking immediate actions that will allow us to get there," Secretary Shelley said. "But I understand the financial constraints counties are under right now and they will not incur any additional cost as a result of the measures I have announced today.

"I want to state clearly and unequivocally: there will be a paper trail for every single vote cast in the state of California, and it will happen on my watch," Shelley said. "By May 30, the state of California will have standards in place for Accessible, Voter-Verified Paper Audit Trail (AVVPAT). I call on the federal government to move immediately on this issue as well, and just this week I have received positive indications from the chairman of the newly formed Federal Elections Assistance Commission that it will do so. These actions will clear the path for every county in the state using touchscreen systems to put a paper trail in place."

-more-

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The Secretary of State's orders follow and expand upon recommendations issued by a state Voting Systems and Procedures Panel (VSPP) this week and last.

Shelley said he understood that his actions on Friday would face criticism both from some county officials, who have resisted his proposed upgrades, and from some activists, who want to ban all touchscreens until a voter-verified paper trail is in place.

"We are acting boldly and responsibly to improve and to secure these systems in time for November. I will make sure we have a voter verified paper trail on every touchscreen system. But I'm also going to make sure we can conduct an orderly election in November," Shelley said.